In the High Court of Uttaranchal at Nainital.

Criminal Misc. Application No. 239 of 2004

Durgesh Kumar Saxena S/o Sri Kameshwari Sahai Saxena R/o 110-A, Mahatma Gandhi Marg, Lucknow ……Petitioner.

Vs

1- State of Uttaranchal,
2- Special Judge Anti Corruption/Additional Sessions Judge (2nd Fast Track Court), Nainital ……..Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri J.S. Virk learned counsel for the petitioner and Sri Amit Bhatt learned A.G.A.

The learned counsel for the petitioner stated that in the sessions trial charges have not been framed. The petitioner has come up with the contention that since he is not a public servant he can not be prosecuted for an offence under the provisions of Prevention of Corruption Act. The petitioner can raise this plea before the learned Sessions Judge at the time of hearing on charge and an appropriate order may be passed under section 227 of the Code of Criminal Procedure. As such the petition is premature.

Considering this the learned counsel prays for withdrawal of the petition. The petition is dismissed as withdrawn with permission to file the same if necessary in case the order against the petitioner is passed and the charges are framed.

Dated 31-5-2004 **(Irshad Hussain, J.)**

ISB